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Senator Katherine Jackson
Senator Benjamin C. Adams
Senate Chamber
State House
Concord, New Hampshire

Dear Senators Jackson and Adams:

You have inquired whether the Tax Commission is correct in considering the net proceeds derived from parking meters in determining the adjusted valuation in towns and cities for the purposes of R. E., c. 140, s. 9, as amended. It is the opinion of this office that the Tax Commission is correct in including this revenue.

The intent of this law was to assist the towns and cities in financing their school program. The amount of assistance was based on a determination of an adjusted valuation, thus, all property and income was capitalized at the same rate so that the different towns and cities might share equally in the state aid. To ignore the fact that one town realizes an income from parking meters is to provide that town with the use of certain funds which a town, without meters, must appropriate.

When the Tax Commission made its initial determination of the adjusted valuation they excluded the income derived from poll taxes, on the basis that the statute specifically named all of the types of taxes, and by implication, placed poll taxes outside the purview of this act. The Tax Commission believed that this was merely an oversight and it must be noted that H. B. 163 of the current session corrects this oversight.

It must be admitted that there are logical arguments on both sides of this question. However, until this matter is decided by higher authority than this office, it is our contention that both the spirit and letter of the law indicate an intention to include this revenue in the adjusted valuation. Chapter 148 of the Laws of 1951 states in part that adjusted valuation "shall consist of all the sources of income available to the town or districts for current expenses, including the equalized valuation of the real and personal property . . . plus the net income . . . derived from, etc. . . ." Further, the law states that the net income derived from

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"municipal departments" shall be included. It has been the practice of the Tax Commission to include this revenue because of the phrase "all the sources of income available to the town". As the benefit from the revenue accrues to the town and the intent being (as stated in c. 148, Laws of 1951) to make this adjusted valuation reflect the district's financial ability to support its schools, it seems logical to assume that this source of income should be considered in determining the financial ability of the town or district.

In view of the uncertainty as to the correct interpretation of this statute, may I suggest that if it is the desire of the legislature to exclude these funds, they so indicate by an amendment to H. B. 163. It is interesting to note that of all the cities and towns which now have parking meters, the town of Perry is the only one affected by including these funds in a determination of their adjusted valuation.

Very truly yours,

Arthur E. Bean, Jr.
Assistant Attorney General

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